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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/402,524	10/05/1999	KEITH REYNOLDS WEHMEYER	RCA 88321	6047

7590

05/24/2004

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EXAMINER

LONSBERRY, HUNTER B

ART UNIT	PAPER NUMBER
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2611

DATE MAILED: 05/24/2004

il

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/402,524

Applicant(s)

WEHMEYER ET AL.

Examiner

Hunter B. Lonsberry

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 17-39 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 17-39 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

Applicant's arguments filed 4/12/04 have been fully considered but they are not persuasive.

1) Applicant argues, that there is no motivation to combine Witek with Klosterman and Schein. (Page 7)

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Klosterman discloses a system in which EPG information from different sources are tagged with colors. Schein is directed to an EPG system with categories. Witek discloses a system that is directed to collating listings from different sources, and converting the category of each listing to a common category. All three references are deal with categories and are thus analogous art. It would have been obvious to one skilled in the art at the time of invention to combine the EPG systems of Schein and Klosterman with the conversion features of Witek in order to display the listings from various sources in common categories for easy retrieval and viewing by a user.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 17-22, 26-33, and 35-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,923,362 to Klosterman in view of U.S. Patent 6,002,394 to Schein and U.S. Patent 6,253,188 to Witek.

Regarding claims 17, 18, and 20, Klosterman discloses an IRD box with a coordinator which is coupled to a cable box and a DBS system, which integrates the program guide information from the sources together and displays a color which corresponds to each source within the program guide, in response to a user query, (Figure 1C, column 2, line 65-column 3, line 47, column 4, line 48-column 5, line 14, column 7, lines 4-21). Klosterman does not disclose forming a program map with a first code identifying a program category, collating program guide information from variety of sources, and converting a first code to a second code for category information. Schein discloses a STB, which retrieves program guide information, displays program guide menu icons related to a theme, programs may be sorted by theme or category (Figure 7A/B, 16A, column 6, line 37-column 7, line 10, column 9, line 21-column 11, line 46, column 21, line 19-65). Witek discloses an automated internet classified system which receives classified ads from newspapers which may categorize listings in different

forms, the listings are retrieved and then converted to a master set of categories prior to display (Figures 3, 7, 14, 15, column 12, line 49-column 13, line 13, column 18, line 33-62, column 52, lines 11-68). Therefore, it would have been obvious to one skilled in the art at the time of invention to modify Klosterman to identify programming by a category as Taught by Schein and merge and re-categorize the listings as taught by Witek, thereby allowing a user to more rapidly identify programming they are interested in.

Regarding claim 19, Witek discloses the equivalence matching information is stored and utilized on servers 16 and 20 (column 17, line 25-column 18, line 62).

Regarding claims 21, 27 and 37, Klosterman discloses an IRD box with a coordinator which is coupled to a cable box and a DBS system, which integrates the program guide information from the sources together and displays a color which corresponds to each source within the program guide, in response to a user query, (Figure 1C, column 2, line 65-column 3, line 47, column 4, line 48-column 5, line 14, column 7, lines 4-21). Klosterman does not disclose forming a program map that uses linking data to collating program guide information collected from variety of sources, and converting merging the data by predefined themes and topics from a master set.

Schein discloses a STB, which retrieves program guide information, displays program guide menu icons related to a theme, programs may be sorted via a menu by theme or category (Figure 7A/B, 16A, column 6, line 37-column 7, line 10, column 9, line 21-column 11, line 46, column 21, line 19-65).

Witek discloses an automated internet classified system which receives classified ads from newspapers which may categorize listings in different forms, the

listings are retrieved and then converted to a master set of categories prior to display (Figures 3, 7, 14, 15, column 12, line 49-column 13, line 13, column 18, line 33-62, column 52, lines 11-68). Therefore, it would have been obvious to one skilled in the art at the time of invention to modify Klosterman to identify programming by a category/theme as Taught by Schein and merge and re-categorize the listings as taught by Witek, thereby allowing a user to more rapidly identify programming they are interested in.

Regarding claim 22, Klosterman discloses a combination DBS and CATV system that may also receive program guide information via twisted pair telephone line, antenna, or DBS dish (Figure 1a/b, column 4, lines 47-64).

Klosterman, Witek and Schein do not disclose retrieving program guide information from the Internet.

The examiner takes official notice that retrieving program guide information from the Internet via an ISP, and enabling interactive EPG functions, such as web pages related to a program, via a telephone connection is well known in the art.

Therefore it would have been obvious to modify the telephone line of Klosterman, Witek and Schein to connect to an Internet service provider and retrieve program guide information, thus enabling interactive EPG functions enabling a user to learn more about a program.

Regarding claims 26 and 28, Klosterman discloses that EPG information may be transmitted in a packetized form with a header and information section, which are

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received and sorted with each other via a coordinator 20 (column 5, line 54-column 6, line 17).

Klosterman, Witek and Schein do not disclose allocating new PIDs to provide compatibility between the program guide and associated program content or associating the PIDs with menu items.

The examiner takes official notice that assigning new PIDs based on program source or a new program source is well known in the art and that associating PIDs with displayed menu items is well known in the art (for example video PIDs and Internet content PIDs).

Therefore it would have been obvious to one skilled in the art at the time of invention to modify Klosterman, Witek and Schein to assign a new PID based on program source so that a master EPG would know which corresponding device and program stream a program is carried on and to utilize PIDs for different data types corresponding to menu items to enable video and Internet information to be carried on the same data stream.

Regarding claim 29, Klosterman discloses a combination DBS and CATV system that may also receive program guide information via twisted pair telephone line, antenna, or DBS dish (Figure 1a/b, column 4, lines 47-64).

Klosterman discloses an IRD box with a coordinator which is coupled to a cable box and a DBS system, which integrates the program guide information from the sources together and displays a color which corresponds to each source within the

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program guide, in response to a user query, (Figure 1C, column 2, line 65-column 3, line 47, column 4, line 48-column 5, line 14, column 7, lines 4-21).

Regarding claims 30 and 31, Klosterman discloses an IRD box with a coordinator which is coupled to a cable box and a DBS system, which integrates the program guide information from the sources together and displays a color which corresponds to each source within the program guide, in response to a user query, (Figure 1C, column 2, line 65-column 3, line 47, column 4, line 48-column 5, line 14, column 7, lines 4-21).

Klosterman, Witek and Schein do not disclose enabling a user to tag a source by a color of their choosing from a continuous color spectrum consisting of a selected range of colors.

The examiner takes official notice that enabling a user to choose a color to define an attribute from a selected range of colors is well known in the art.

Therefore it would have been obvious to one skilled in the art at the time of invention to modify Klosterman, Witek and Schein to enable a user to choose a color to define an attribute from a selected range of colors, in order to allow a user to readily identify the source of programming in an aesthetically pleasing manner.

Regarding claim 35, Schein discloses a PCTV system (abstract), which includes links in an EPG for Internet sites related to a TV program listing (column 7, line 60-column 8, line 8).

Klosterman, Witek and Schein do not disclose the use of an Internet icon, which includes access data for an ISP's telephone number and a URL for the additional content.

The examiner takes official notice that the use of an indicator which indicates Internet content and contains a URL for the content, and the use of a telephone number linking data is well known in the art.

Therefore, it would have been obvious to one skilled in the art at the time of invention to modify Klosterman, Witek and Schein to include an Internet icon and the associated access data, in order to enable a PCTV to access additional information regarding a program and allow a user to learn more about the program.

Regarding claim 36, Schein discloses a PCTV system (abstract).

Klosterman, Witek and Schein do not disclose formatting html webpages in an MPEG compatible format using PIDs.

The examiner takes official notice that utilizing PIDS to carry HTML data within an MPEG data stream is well known in the art.

Therefore, it would have been obvious to one skilled in the art at the time of invention to modify Klosterman, Witek and Schein to format the HTML data in an MPEG compatible format to utilize a high bandwidth video pathway for the delivery of data.

Regarding claim 38, Klosterman discloses that EPG data may be retrieved via a twisted pair telephone line (column 4, line 59-column 5, line 15).

Klosterman inherently uses communication protocol codes as access data, as a communications protocol is required for the transfer of data.

Schein discloses that a regular modem connects via a telephone line to an online service provider for EPG information (column 5, line 66-column 6, line 8).

Schein inherently utilizes a telephone number, as a telephone number is required for a modem to specify a connection to another modem.

Regarding claim 39, Schein displays an EPG in figure 16a, the STB may be a PCTV (abstract), the decoder system may then display the video image on a computer monitor (column 6, lines 26-65).

Schein inherently utilizes pixel data to display a program guide on a computer monitor, as a computer monitor is a digital device.

Claims 23-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,923,362 to Klosterman in view of U.S. Patent 6,002,394 to Schein and U.S. Patent 6,253,188 to Witek in further view of U.S. Patent 6,147,714 to Terasawa.

Regarding claims 23-25, Klosterman discloses the use of a DBS service to transmit EPG information and programs (column 4, lines 48-64).

Klosterman, Witek and Schein are silent regarding using MPEG formatted data and PIDs to identify EPG or other data.

Terasawa discloses that EPG data is multiplexed in an mpeg stream, and a packet ID header is mapped to the data, this header is then sorted and the EPG data is retrieved and stored (column 1, lines 16-27, column 3, line 66-column 4, line 39, column 14, line 66-column 15, line 30).

Therefore it would have been obvious to one skilled in the art at the time of invention to modify Klosterman, Witek and Schein to multiplex and utilize PIDs as taught by Terasawa in order to deliver EPG data via a satellite stream.

Claim 34 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,923,362 to Klosterman in view of U.S. Patent 6,002,394 to Schein and U.S. Patent 6,253,188 to Witek in further view of U.S. Patent 5,883,677 to Hofmann.

Regarding claim 34, Klosterman discloses the use of a DBS service to transmit EPG information and programs (column 4, lines 48-64).

The combination of Klosterman, Witek and Schein does not disclose presenting program content based on source.

Hoffman discloses in Figure 9a, a program guide that sorts and displays programs by source, for example CATV, Telcos and DBS.

Therefore, it would have been obvious to one skilled in the art at the time of invention to modify Klosterman, Witek and Schein to sort by source in order to enable a user to readily identify programming of interest.


Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hunter B. Lonsberry whose telephone number is 703-305-3234. The examiner can normally be reached on Monday-Friday during normal business hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Faile can be reached on 703-305-4380. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

HBL



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PRIMARY EXAMINER